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OFFICE OF PETITIONS

In re Application of :
Wei et al. :
Application No. 10/017,183 : DECISION ON PETITION
Filed: 7 December, 2001 :
Atty Docket No. NW-102 :

This is a decision on the petition filed on 24 July, 2006, which is treated as a petition under 37 CFR 1.53(e) requesting that the above-identified application be accorded a filing date of 7 December, 2001.

The petition is **granted**.

The instant nonprovisional application papers as filed consisted of 55 pages containing text and drawings on the same pages. On 5 April, 2002, however, the Office of Initial Patent Examination sent a Notice stating that, *inter alia*, the specification contains drawings or flow diagrams (37 CFR 1.58(a)), and that formal drawings in accordance with 37 CFR 1.81 should be submitted.

In response, on 19 February, 2003, 20 sheets of drawings were filed.

In response, the present petition was filed on 24 July, 2006. Petitioners assert that the correct filing date is 7 December, 2001, and request that the filing date be corrected.

Pursuant to 35 USC 111(a)(2)(B), in order to obtain a filing date, a nonprovisional application must provide the specification required by 35 USC 112, and a drawing as prescribed by 35 USC 113, conditions clearly met herein on 7 December, 2001. All

conditions for obtaining a filing date in this application were clearly met on 7 December, 2001.¹

Under the facts of this case, this nonprovisional application is entitled, for a filing date, to the date of receipt of the 55 pages of specification that also contained drawing figures. There is no explicit requirement that precludes the obtaining of a filing date for an application when the specification and drawings are, as here, not separated.

No petition fee is due. The petition fee will be credited to counsel's deposit account.

The filing date will be corrected to 7 December, 2001.

This nonprovisional application is being forwarded to the Office of Initial Patent Examination (OIPE), Customer Corrections, for further processing with a filing date of 7 December, 2001.

Telephone inquiries should be directed to the undersigned at 571-272-3231. Inquiries related to OIPE processing should be directed to OIPE at 571-272-4000.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

¹ It is additionally noted that Claims 1-18, 20, and 21 as originally filed are method claims. It has been the practice of the USPTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence) MPEP 601.01(f).